

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

A Limited Liability Partnership

2 Including Professional Corporations

P. CRAIG CARDON, Cal. Bar No. 168646

3 DAVID R. GARCIA, Cal. Bar No. 151349

ELIZABETH S. BERMAN, Cal. Bar No. 252377

4 BRIAN R. BLACKMAN, Cal. Bar No. 196996

Four Embarcadero Center, 17th Floor

5 San Francisco, California 94111-4109

Telephone: 415-434-9100

6 Facsimile: 415-434-3947

ccardon@sheppardmullin.com

7 drgarcia@sheppardmullin.com

eberman@sheppardmullin.com

8 bblackman@sheppardmullin.com

9 Attorneys for Defendant

EUROMARKET DESIGNS, INC.

10 d/b/a CRATE & BARREL

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13
14 CARLOS CAMPBELL, an individual, on
15 behalf of himself and all others similarly
16 situated,

17 Plaintiffs,

18 v.

19 EUROMARKET DESIGNS, INC. d/b/a
20 CRATE & BARREL, an Illinois
21 corporation,

22 Defendant.

Case No. 3:11-cv-01368-JSW

CLASS ACTION

**STIPULATION AND ~~[Proposed]~~
ORDER STAYING PROCEEDINGS
PENDING DECISION ON
DEFENDANT'S MOTION TO
TRANSFER CASES PURSUANT TO 28
U.S.C. § 1407 FOR COORDINATED
OR CONSOLIDATED PRETRIAL
PROCEEDINGS**

Complaint Filed: February 18, 2011

Complaint Served: Not Served

Action Removed: March 22, 2011

1 WHEREAS, on March 22, 2011, Defendant Euromarket Designs, Inc. d/b/a
2 Crate & Barrel ("Crate & Barrel") removed a Complaint filed against it by Plaintiff Carlos
3 Campbell ("Plaintiff") to this Court in the above-captioned case, *Campbell v. Crate &*
4 *Barrel*, Case No. 3:11-cv-01368-JSW (N.D. Cal.) ("*Campbell*");

5
6 WHEREAS, the following five related cases have also been filed against
7 Crate & Barrel:

- 8
- 9 1. *Dardarian v. Crate & Barrel*, Case No. 3:11-cv-00945-JSW (N.D. Cal.)
10 ("*Dardarian*")
 - 11
 - 12 2. *O'Connor v. Crate & Barrel*, Case No. 3:11-cv-02140-SC (N.D. Cal.)
13 ("*O'Connor*")
 - 14
 - 15 3. *Salmonson v. Crate & Barrel*, Case No. 2:11-cv-02446-PSG -PLA (C.D.
16 Cal.) ("*Salmonson*")
 - 17
 - 18 4. *Heon v. Crate & Barrel*, Case No. 3:11-cv-00769-JLS -BGS (S.D. Cal.)
19 ("*Heon*")
 - 20
 - 21 5. *Shughrou v. Crate & Barrel*, Case No. 4:11-cv-02325-LB (N.D. Cal.)
22 ("*Shughrou*");
 - 23

24 WHEREAS, plaintiffs in all six of these actions purport to represent a class
25 of California consumers and allege that Crate & Barrel unlawfully requested and recorded
26 personal identification information from customers who purchased goods using credit
27 cards at Crate & Barrel's retail establishments;

1 WHEREAS, plaintiffs in all six actions allege that this practice violates
2 California Civil Code § 1747.08 (the "Song-Beverly Credit Card Act" or "Act");

3
4 WHEREAS, all six actions will require a court to resolve nearly identical
5 factual issues relating to a single common defendant, Crate & Barrel;

6
7 WHEREAS, the parties agree that centralization of all six actions for
8 coordinated or consolidated pretrial proceedings is proper under 28 U.S.C. § 1407, because
9 they share common factual questions, and also because centralization would be convenient
10 and would promote the just and efficient conduct of pretrial proceedings;

11
12 WHEREAS, on May 11, 2011, before the United States Judicial Panel on
13 Multidistrict Litigation ("JPML"), Crate & Barrel filed a Motion to Transfer *Heon*,
14 *Dardarian*, *O'Connor*, *Campbell* and *Salmonson* for coordinated or consolidated pretrial
15 proceedings pursuant to 28 U.S.C. § 1407;

16
17 WHEREAS, on May 31, 2011, Crate & Barrel filed a Notice of Tag-Along
18 Action before the JPML seeking to centralize *Shughrou* together with the actions already
19 encompassed by its Motion to Transfer;

20
21 WHEREAS, all six actions are likely to be centralized because they share
22 common factual questions, and also because centralization would be convenient and would
23 promote the just and efficient conduct of pretrial proceedings. *See, e.g., In re Payless*
24 *Shoesource, Inc., California Song-Beverly Credit Card Act Litig.*, 609 F. Supp. 2d 1372
25 (J.P.M.L. 2009) (centralizing two putative class actions alleging identical violations of the
26 Song-Beverly Credit Card Act).

1 WHEREAS, conducting pretrial proceedings while Crate & Barrel's Motion
2 to Transfer is pending would impose an undue burden on the parties and the Court if the
3 JPML ultimately grants Crate & Barrel's Motion to Transfer, because any pretrial
4 proceedings conducted now would likely be wasted or need to be repeated;

5
6 WHEREAS, neither party will suffer any prejudice, hardship or inequity if
7 these proceedings are stayed pending the JPML's decision on Crate & Barrel's Motion to
8 Transfer;

9
10 WHEREAS, the Court has the inherent power to stay all proceedings
11 pending the JPML's decision on Crate & Barrel's Motion to Transfer;

12
13 WHEREAS, staying all proceedings pending the JPML's decision on Crate
14 & Barrel's Motion to Transfer would serve the interests of judicial economy and
15 efficiency, for all the reasons discussed above;

16
17 WHEREAS, on June 1, 2011, the parties in *Dardarian* filed a substantially
18 similar Stipulation and Proposed Order Staying Proceedings pending the JPML's decision
19 on Crate & Barrel's Motion to Transfer;

20
21 WHEREAS, on June 2, 2011, the parties in *O'Connor* filed a substantially
22 similar Stipulation and Proposed Order Staying Proceedings pending the JPML's decision
23 on Crate & Barrel's Motion to Transfer;

24
25 WHEREAS, courts routinely stay all proceedings pending the JPML's
26 determination of a motion to transfer based on the likelihood of transfer, the absence of
27 prejudice, and the interests of judicial economy and efficiency. *See, e.g., Clark v. Payless*
28 *Shoesource, Inc.*, Case No. 08-CV-08213 (C.D. Cal. Order filed Dec. 29, 2008) (entering

1 stipulated order staying all proceedings in a putative class action alleging violations of the
 2 Song-Beverly Credit Card Act); *Oregon ex rel. Kroger v. Johnson & Johnson*, Case No.
 3 11-CV-86-AC, 2001 U.S. Dist. LEXIS 39187 (D. Or., Apr. 8, 2011) (granting motion to
 4 stay pending JPML decision on motion to transfer); *Barnes v. Equinox Group, Inc.*, Case
 5 No. C 10-03586, 2010 U.S. Dist. LEXIS 138863 (N.D. Cal., Dec. 30, 2010) (same);
 6 *Cottle-Banks v. Cox Communications, Inc.*, Case No. 10-cv-2133, 2010 U.S. Dist. LEXIS
 7 138195 (S.D. Cal., Dec. 30, 2010) (same); *Gordillo v. Bank of Am.*, Case No. 1:09-cv-
 8 01954, 2010 U.S. Dist. LEXIS 7954 (E.D. Cal., Jan. 13, 2010) (same); *Sanborn v.*
 9 *Asbestos Corp., Ltd.*, Case No. C 08-5260, 2009 U.S. Dist. LEXIS 7528 (N.D. Cal., Jan.
 10 27, 2009) (same); *Lyman v. Asbestos Defendants (B*P)*, Case No. C 07-4240, 2007 U.S.
 11 Dist. LEXIS 78766 (N.D. Cal., Oct. 10, 2007) (same); *Nielsen v. Merck and Co.*, Case No.
 12 C 07-00076, 2007 U.S. Dist. LEXIS 21250 (N.D. Cal., Mar. 15, 2007) (same); *Collum v.*
 13 *Astrazenca Pharm., L.P.*, Case No. C 06-0662, 2006 U.S. Dist. LEXIS 64861 (N.D. Cal.,
 14 Aug. 29, 2006) (same); *Rivers v. The Walt Disney Co.*, 980 F. Supp. 1358, 1362 (C.D. Cal.
 15 1997) (granting motion to stay pending JPML decision on motion to transfer, holding:
 16 "[I]t appears that a majority of courts have concluded that it is often appropriate to stay
 17 preliminary pretrial proceedings while a motion to transfer and consolidate is pending with
 18 the MDL Panel because of the judicial resources that are conserved.");

19
 20 NOW THEREFORE, it is stipulated by the undersigned counsel on behalf of
 21 the parties below, and subject to the Court's approval, that:

22
 23 All proceedings in this action are stayed pending the JPML's decision on
 24 Crate & Barrel's Motion to Transfer Cases for Consolidated or Coordinated Pretrial
 25 Proceedings (MDL No. 2260).

1 **IT IS SO STIPULATED.**

2
3 Dated: June 2, 2011

4 HARRISON PATTERSON & O'CONNOR LLP

5
6 By s/ James R. Patterson
7 JAMES R. PATTERSON
8 MATTHEW J. O'CONNOR

9 Attorneys for Plaintiff
10 CARLOS CAMPBELL

11 Dated: June 2, 2011

12 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

13 By s/ Elizabeth S. Berman
14 P. CRAIG CARDON
15 DAVID R. GARCIA
16 BRIAN R. BLACKMAN
17 ELIZABETH S. BERMAN

18 Attorneys for Defendant
19 EUROMARKET DESIGNS, INC.
20 d/b/a CRATE & BARREL

21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

22 Dated: June 3, 2011.

23 Jeffrey S. White
24 Jeffrey S. White
25 United States District Judge
26 Northern District of California
27
28